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**Automotive Occupant Restraints Council**

NHTSA-01-12150-9

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July 1, 2002

The Honorable Jeffery W. Runge
Administrator
National Highway Traffic Safety Administration
400 Seventh Street SW
Washington DC 20590

By Fax to 202-493-2251

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DEPT OF TRANSPORTATION

Dear Dr. Runge:

The Automotive Occupant Restraints Council (AORC) is pleased to submit the following comments to the National Highway Traffic Safety Administration (NHTSA) on the Notice of Proposed Rule Making (NPRM) for Confidential Business Information

The Automotive Occupant Restraints Council is an industry association of 47 suppliers of occupant restraints and components/materials to the automobile industry. The mission of the Council is to reduce highway casualties and injuries by providing the motoring public with reliable and effective occupant restraint systems and components, and to promote public acceptance and proper use of their restraint systems.

Specific comments by AORC concerning Docket No. NHTSA-02-12150 are as follows:

- **Confidentiality of Engineering Materials**

AORC believes that the presumptive listing of engineering materials provided in the notice is too limited. The NPRM address only blueprints and engineering drawings. AORC believes that this should be expanded to cover other company confidential engineering materials as well. These include material specifications, process specifications, Design Failure Mode and Effects Analysis (DFMEA), Process Failure Mode and Effects Analysis (PFMEA), quality control plans, and product test procedures that are in addition to those required by federal safety standards. It is felt that the expansion of the confidential listing for engineering materials rightfully places the burden of proof for an exemption on the requestor.

- **Confidential Treatment for Third Parties**

The NPRM makes provision for obtaining confidential treatment for third parties, which is most often the case when a supplier is providing material through their customer, the automobile manufacturer. There is no problem in submitting materials such as outline drawings, which are shared with the customer. However for materials such as detailed drawings, material/component specifications, which are not shared with the customer, AORC believes that a route should be provided to allow for third parties (the supplier) to provide the requested materials under a confidential basis without going through their customer (the automobile manufacturer).

- **Unanalyzed Allegations of Defects**

The NPRM would allow unanalyzed allegations of defects to be made available to the docket. AORC believes that the purpose of confidential treatment is to prevent irreversible harm to a company or entity with intellectual property. The disclosure of raw data can be deceiving, particularly when it is gathered for other purposes (e.g. warranty data that is gathered for payment purposes and for a root cause analysis) or when it is gathered for the purpose of "discovery". AORC believes that it is important that the analysis of such data be made by NHTSA before it is released to the docket.

- **Denied Request for Confidentiality**

The NPRM makes allowance for Petitions for Reconsideration when a request for confidentiality is denied. The time provided to file such a petition however is provided in the wording - "prior to the date on which the information would otherwise be made available to the public". AORC believes that this wording is not clear and suggest it be reworded to read - "prior to the date that the information would otherwise be made available to the public or 30 days after denial notification is made, whichever is longer". This would assure a reasonable time for a submitter to assess the impact of the denial and to gather information in defense of an alternate position before the information is made public

- **Tracking of Confidential Materials**

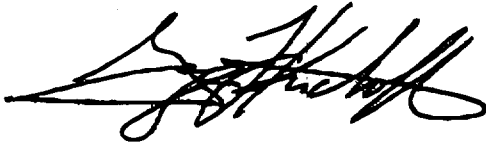
The NPRM requires that the supplier of confidential materials constantly track that material after it has been submitted and accepted in order to notify NHTSA at the point that the material becomes public knowledge should that be the case. AORC believes that this is a major endeavor considering the large and varied amount of material that is involved. AORC believe this places a new and significant burden of responsibility on the supplier.

- **Supplier Production Data**

The NPRM does not make allowance for the confidentiality of supplier production information. While vehicle production information is generally public information, this is not the case for supplier production information. Making this information public could impact negatively the supplier's competitive position. AORC believes that supplier production information should be considered confidential.

The Automotive Occupant Restraints Council appreciates the opportunity to comment on the NPRM concerning Confidential Business Information and hopes that the above comments will be beneficial in finalizing this standard.

Sincerely,

A handwritten signature in black ink, appearing to read "George F. Kirchoff", with a stylized flourish at the end.

George F. Kirchoff
President
Automotive Occupant Restraints Council